

STATE OF VERMONT
PUBLIC SERVICE BOARD

Dig Safe Notice No. 764

In Re: FairPoint Communications, Alleged Violation of)
September 1, 2010, as reported by FairPoint)
Communications)

Order entered: 8/30/2011

ORDER RE: NOTICE OF PROBABLE VIOLATION

Background

1. Pursuant to 30 V.S.A. § 7001 et. seq., and Vermont Public Service Board Rule 3.800, the Vermont Department of Public Service ("Department") issued a Notice of Probable Violation of Underground Utility Damage Prevention System ("NOPV") to FairPoint Communications ("Respondent").
2. Incident Date: August 12, 2010
3. Incident Location: in front of 99 Main Street, Brattleboro, VT
4. Name and Address of Company that Reported the Incident to the Department: FairPoint Communications, 800 Hinesburg Road, South Burlington, VT 05403
5. Date Incident Reported to Effected Utility: August 12, 2010
6. Date NOPV issued by Department: June 10, 2011 (#1883)
7. Department's Statement of Evidence Supporting the Alleged Violation: "The Department of Public Service investigated this incident and determined the following details. Moulisen North Corporation made a notice of excavation activities to Dig Safe System Inc. FairPoint did not accurately locate and mark all of its underground facilities in the area of the proposed excavation. During the course of the excavation an unmarked FairPoint distribution wire was struck and damaged by Moulisen North Corp. This damage resulted in a phone service outage for approximately 2 hours. Moulisen North Corporation notified FairPoint of the damaged facility. The Department of Public Service issued 12 Notices of Probable Violation (NOPVs) to FairPoint Communications during the 12 months preceding this incident."
8. Statute, Rule, Regulation or Order Allegedly violated: 30 V.S.A. § 7006

9. The Department's Recommended Remedial Action(s) (Including Civil Penalties): Civil penalty in the amount of Five Thousand Dollars (\$5,000.00).
10. The Respondent has agreed to take the remedial action(s) recommended by the Department.¹

Conclusion and Order

Because the Respondent has not contested the NOPV, or the allegations therein, we conclude that the remedial action proposed in the NOPV is appropriate, and should be imposed.²

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

Within thirty days of the date of this Order, Telephone Operating Company of Vermont LLC, d/b/a FairPoint Communications, shall pay a civil penalty in the amount of Five Thousand Dollars (\$5,000.00) by submitting to the Public Service Board a check in that amount made payable to the State of Vermont, and sent to the Public Service Board at 112 State Street, Montpelier, VT 05620-2701.

1. *See*, Respondent's filing of 7/22/11.

2. *See*, Public Service Board Rule 3.807(G).

Dated at Montpelier, Vermont, this 30th day of August, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: August 30, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.